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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,945	01/14/2002	Binic V. Lipps	FWLPAT015US	5192
7590 John R. Casperson PO Box 2174 Friendswood, TX 77549			EXAMINER CHAUDHURI, ANIRUDDHO RAY	
			ART UNIT 1644	PAPER NUMBER

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/047,945	LIPPS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Aniruddho R Chaudhuri	1644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 September 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 9-18 are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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### DETAILED ACTION

1. The Art Unit and the examiner of this application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Aniruddho Ray Chaudhuri, Group Art Unit 1644, Technology Center 1600.
2. Applicant's election of Claims 9-18 (Group VII), species of serum protein to be reduced as IgE and species of peptide to be administered as SEQ. ID. NO 1, in the reply filed on 09/02/2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 1-8 (non-elected groups I - VI) are withdrawn from further consideration under 37 C.F.R. § 1.142(b) as being drawn to nonelected inventions.

*Claims 9 - 18, are under consideration in the instant application.*

3. Applicant's election of Group VII, claims 9-18 is acknowledged. However, upon reconsideration of the claimed invention, further restriction thereof is set forth herein.
4. Applicant is advised to amend the Abstract to include the SEQ ID NO (see 37 C.F.R. § 1.72(b), MPEP 608.01(b)).

### Election/Restrictions

5. This application contains claims directed to the following patentably distinct species of the diseases claimed in Group VII.

Applicant is required to elect a particular condition for diagnosis with the peptide of SEQ ID NO: 1, selected from the following:

- a. asthma,
- b. diabetes,
- c. depression,
- d. systemic lupus erythematosus,
- e. rheumatoid arthritis,
- f. Sjogren's syndrome,
- g. Reiter's syndrome,
- h. Graves' disease,
- i. Addison's disease, or
- j. Hodgkin's disease.

These species are distinct because the pathological conditions differ in etiologies and therapeutic endpoints; thus each condition represents patentably distinct subject matter.

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Applicant is further required under 35 USC 121 (1) to elect a single disclosed species to which the claims would be restricted if no generic claim is finally held to be allowable and (2) to list all claims readable thereon including those subsequently added.

6. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

7. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. § 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. § 1.48(b) and by the fee required under 37 C.F.R. § 1.17(h).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aniruddho Ray Chaudhuri whose telephone number is 571-272-0953. The examiner can normally be reached on Monday thru Friday 8:30 - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on 571-272-0841. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Aniruddho Ray Chaudhuri (AC), Ph.D.

Patent Examiner

Technology Center 1600

November 9, 2004

*Phillip Gambel*  
PHILLIP GAMBEL, PH.D  
PRIMARY EXAMINER  
*TECH CENTER 1600*  
*11/10/04*